

1-1 By: Stephenson (Senate Sponsor - Hegar) H.B. No. 3954  
1-2 (In the Senate - Received from the House May 17, 2013;  
1-3 May 17, 2013, read first time and referred to Committee on  
1-4 Administration; May 20, 2013, reported favorably by the following  
1-5 vote: Yeas 5, Nays 0; May 20, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14			X	

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to the creation of Kendleton Improvement District;  
1-18 providing authority to issue bonds; providing authority to impose  
1-19 assessments, fees, or taxes.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-21 SECTION 1. Subtitle C, Title 4, Special District Local Laws  
1-22 Code, is amended by adding Chapter 3928 to read as follows:

1-23 CHAPTER 3928. KENDLETON IMPROVEMENT DISTRICT

1-24 SUBCHAPTER A. GENERAL PROVISIONS

1-25 Sec. 3928.001. DEFINITIONS. In this chapter:

1-26 (1) "Board" means the district's board of directors.

1-27 (2) "City" means the City of Kendleton.

1-28 (3) "County" means Fort Bend County.

1-29 (4) "Director" means a board member.

1-30 (5) "District" means the Kendleton Improvement  
1-31 District.

1-32 Sec. 3928.002. NATURE OF DISTRICT. The Kendleton  
1-33 Improvement District is a special district created under Section  
1-34 59, Article XVI, Texas Constitution.

1-35 Sec. 3928.003. PURPOSE; DECLARATION OF INTENT. (a) The  
1-36 creation of the district is essential to accomplish the purposes of  
1-37 Sections 52 and 52-a, Article III, and Section 59, Article XVI,  
1-38 Texas Constitution, and other public purposes stated in this  
1-39 chapter. By creating the district and in authorizing the city, the  
1-40 county, and other political subdivisions to contract with the  
1-41 district, the legislature has established a program to accomplish  
1-42 the public purposes set out in Section 52-a, Article III, Texas  
1-43 Constitution.

1-44 (b) The creation of the district is necessary to promote,  
1-45 develop, encourage, and maintain employment, commerce,  
1-46 transportation, housing, tourism, recreation, the arts,  
1-47 entertainment, economic development, safety, and the public  
1-48 welfare in the district.

1-49 (c) This chapter and the creation of the district may not be  
1-50 interpreted to relieve the city or the county from providing the  
1-51 level of services provided as of the effective date of the Act  
1-52 enacting this chapter to the area in the district. The district is  
1-53 created to supplement and not to supplant city or county services  
1-54 provided in the district.

1-55 Sec. 3928.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)  
1-56 The district is created to serve a public use and benefit.

1-57 (b) All land and other property included in the district  
1-58 will benefit from the improvements and services to be provided by  
1-59 the district under powers conferred by Sections 52 and 52-a,  
1-60 Article III, and Section 59, Article XVI, Texas Constitution, and  
1-61 other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing or expanding transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center;

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty; and

(4) provide for water, wastewater, drainage, road, rail, and recreational facilities for the district.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3928.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3928.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;

(3) an enterprise zone created under Chapter 2303, Government Code; or

(4) an industrial district created under Chapter 42, Local Government Code.

Sec. 3928.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3928.008. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3928.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five voting directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may change the number of voting directors on the board if the board determines that the change is in the best interest of the district. The board may not consist of fewer than 5 or more than 15 directors.

Sec. 3928.052. APPOINTMENT OF VOTING DIRECTORS. The Texas

Commission on Environmental Quality shall appoint voting directors from persons recommended by the board.

Sec. 3928.053. NONVOTING DIRECTORS. The board may appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 3928.054. QUORUM. For purposes of determining the requirements for a quorum of the board, the following are not counted:

(1) a board position vacant for any reason, including death, resignation, or disqualification;

(2) a director who is abstaining from participation in a vote because of a conflict of interest; or

(3) a nonvoting director.

Sec. 3928.055. COMPENSATION. A director is entitled to receive fees of office and reimbursement for actual expenses as provided by Section 49.060, Water Code. Sections 375.069 and 375.070, Local Government Code, do not apply to the board.

Sec. 3928.056. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1.</u>	<u>Bouche Mickey</u>
<u>2.</u>	<u>Abe Soloman</u>
<u>3.</u>	<u>Kanzetta Allen</u>
<u>4.</u>	<u>Christopher Humphrey</u>
<u>5.</u>	<u>Melvin Petitt</u>

(b) Of the initial directors, the terms of directors appointed for positions one through three expire June 1, 2015, and the terms of directors appointed for positions four and five expire June 1, 2017.

(c) Section 3928.052 does not apply to this section.

(d) This section expires September 1, 2017.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 3928.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3928.102. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using any money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3928.103. RAIL FACILITIES. The district may construct, acquire, improve, maintain, and operate rail facilities and improvements in aid of those facilities.

Sec. 3928.104. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3928.105. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3928.106. AGREEMENTS; GRANTS. (a) As provided by

Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3928.107. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including the county or the city, to provide law enforcement services in the district for a fee.

Sec. 3928.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3928.109. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers provided to municipalities by:

(1) Chapter 380, Local Government Code; and

(2) Subchapter A, Chapter 1509, Government Code.

Sec. 3928.110. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 3928.111. STRATEGIC PARTNERSHIP AGREEMENT. The district may negotiate and enter into a written strategic partnership agreement under Section 43.0751, Local Government Code, with a municipality in whose extraterritorial jurisdiction the district is located.

Sec. 3928.112. ANNEXATION OR EXCLUSION OF LAND. (a) The district may annex land as provided by Subchapter J, Chapter 49, Water Code.

(b) The district may exclude land as provided by Subchapter J, Chapter 49, Water Code. Section 375.044(b), Local Government Code, does not apply to the district.

Sec. 3928.113. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3928.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of district money.

Sec. 3928.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3928.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement

has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 3928.154. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first-class United States mail. The board shall determine the method of notice.

Sec. 3928.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3928.156. RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to a tax authorized or approved by the voters of the district or a required payment for a service provided by the district, including water and sewer services.

Sec. 3928.157. COMPETITIVE BIDDING. Subchapter I, Chapter 49, Water Code, applies to the district. Sections 375.221 and 375.223, Local Government Code, do not apply to the district.

Sec. 3928.158. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of district taxes or assessments on property in the zones.

#### SUBCHAPTER E. TAXES AND BONDS

Sec. 3928.201. ELECTIONS REGARDING TAXES AND BONDS. (a) The district may issue, without an election, bonds, notes, and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 3928.203.

(b) The district must hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) Section 375.243, Local Government Code, does not apply to the district.

(d) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 3928.202. OPERATION AND MAINTENANCE TAX. (a) If authorized by a majority of the district voters voting at an election held in accordance with Section 3928.201, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code, for any district purpose, including to:

(1) maintain and operate the district;

(2) construct or acquire improvements; or

6-1 (3) provide a service.

6-2 (b) The board shall determine the tax rate. The rate may not  
 6-3 exceed the rate approved at the election.

6-4 (c) Section 49.107(h), Water Code, does not apply to the  
 6-5 district.

6-6 Sec. 3928.203. CONTRACT TAXES. (a) In accordance with  
 6-7 Section 49.108, Water Code, the district may impose a tax other than  
 6-8 an operation and maintenance tax and use the revenue derived from  
 6-9 the tax to make payments under a contract after the provisions of  
 6-10 the contract have been approved by a majority of the district voters  
 6-11 voting at an election held for that purpose.

6-12 (b) A contract approved by the district voters may contain a  
 6-13 provision stating that the contract may be modified or amended by  
 6-14 the board without further voter approval.

6-15 Sec. 3928.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS  
 6-16 AND OTHER OBLIGATIONS. (a) The district may borrow money on terms  
 6-17 determined by the board. Section 375.205, Local Government Code,  
 6-18 does not apply to a loan, line of credit, or other borrowing from a  
 6-19 bank or financial institution secured by revenue other than ad  
 6-20 valorem taxes.

6-21 (b) The district may issue bonds, notes, or other  
 6-22 obligations payable wholly or partly from ad valorem taxes,  
 6-23 assessments, impact fees, revenue, contract payments, grants, or  
 6-24 other district money, or any combination of those sources of money,  
 6-25 to pay for any authorized district purpose.

6-26 Sec. 3928.205. TAXES FOR BONDS. At the time the district  
 6-27 issues bonds payable wholly or partly from ad valorem taxes, the  
 6-28 board shall provide for the annual imposition of a continuing  
 6-29 direct annual ad valorem tax, without limit as to rate or amount,  
 6-30 for each year that all or part of the bonds are outstanding as  
 6-31 required and in the manner provided by Sections 54.601 and 54.602,  
 6-32 Water Code.

6-33 Sec. 3928.206. TAXES AND BONDS FOR RECREATIONAL FACILITIES.  
 6-34 The limitation on the outstanding principal amount of bonds, notes,  
 6-35 and other obligations provided by Section 49.4645, Water Code, does  
 6-36 not apply to the district.

#### 6-37 SUBCHAPTER F. DEFINED AREAS

6-38 Sec. 3928.251. AUTHORITY TO ESTABLISH DEFINED AREAS OR  
 6-39 DESIGNATED PROPERTY. The district may define areas or designate  
 6-40 certain property of the district to pay for improvements,  
 6-41 facilities, or services that primarily benefit that area or  
 6-42 property and do not generally and directly benefit the district as a  
 6-43 whole.

6-44 Sec. 3928.252. PROCEDURE FOR ELECTION. (a) Before the  
 6-45 district may impose an ad valorem tax or issue bonds payable from ad  
 6-46 valorem taxes of the defined area or designated property, the board  
 6-47 shall hold an election in the defined area or in the designated  
 6-48 property only.

6-49 (b) The board may submit the issues to the voters on the same  
 6-50 ballot to be used in another election.

6-51 Sec. 3928.253. DECLARING RESULT AND ISSUING ORDER. (a) If  
 6-52 a majority of the voters voting at the election approve the  
 6-53 proposition or propositions, the board shall declare the results  
 6-54 and, by order, shall establish the defined area and describe it by  
 6-55 metes and bounds or designate the specific property.

6-56 (b) A court may not review the board's order except on the  
 6-57 ground of fraud, palpable error, or arbitrary and confiscatory  
 6-58 abuse of discretion.

6-59 Sec. 3928.254. TAXES FOR SERVICES, IMPROVEMENTS, AND  
 6-60 FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On voter  
 6-61 approval and adoption of the order described by Section 3928.253,  
 6-62 the district may apply separately, differently, equitably, and  
 6-63 specifically its taxing power and lien authority to the defined  
 6-64 area or designated property to provide money to construct,  
 6-65 administer, maintain, and operate services, improvements, and  
 6-66 facilities that primarily benefit the defined area or designated  
 6-67 property.

6-68 Sec. 3928.255. ISSUANCE OF BONDS FOR DEFINED AREA OR  
 6-69 DESIGNATED PROPERTY. After the order under Section 3928.253 is

adopted, the district may issue bonds to provide for any land, improvements, facilities, plants, equipment, and appliances for the defined area or designated property.

SUBCHAPTER G. DISSOLUTION AND MUNICIPAL ANNEXATION

Sec. 3928.301. MUNICIPAL ANNEXATION; DISSOLUTION. (a) The district is a "water or sewer district" under Section 43.071, Local Government Code.

(b) Section 43.075, Local Government Code, applies to the district.

(c) Section 375.264, Local Government Code, does not apply to the dissolution of the district by a municipality.

SECTION 2. The Kendleton Improvement District initially includes all territory contained in the following area:

A 274 ACRES TRACT OF LAND, IN THE ISAAC MCGARY LEAGUE, ABSTRACT NO. 58, FORT BEND COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point at the intersection of the northwesterly right-of-way line of G.H. & S.A. Railroad and the westerly line of West End Tavener Road;

(1) THENCE, South 56°08'39" West, along the northerly right-of-way line of said G.H. & S.A. Railroad, a distance of 4169.55 feet to a point in the centerline of Brooks Branch;

(2) THENCE, North 04°58'48" West, along the centerline of Brooks Branch, a distance of 76.95 feet to a point;

(3) THENCE, North 20°38'09" West, along the centerline of Brooks Branch, a distance of 112.84 feet to a point;

(4) THENCE, North 27°38'06" West, along the centerline of Brooks Branch, a distance of 229.19 feet to a point;

(5) THENCE, North 59°22'20" West, along the centerline of Brooks Branch, a distance of 97.47 feet to a point;

(6) THENCE, North 72°10'20" West, along the centerline of Brooks Branch, a distance of 181.22 feet to a point;

(7) THENCE, North 30°00'00" West, along the centerline of Brooks Branch, a distance of 257.39 feet to a point in the south line of a called 41.374 acres tract described to Anthony Humphrey in vol. 2371, pg. 1473, F.B.C.C.F.;

(8) THENCE, South 57°15'05" West, a distance of 833.50 feet to a point;

(9) THENCE, North 23°45'00" West, a distance of 911.49 feet to a point in the south line of a called 42.0 acres tract described to Lisa Davis in 2007122421, F.B.C.C.F.;

(10) THENCE, South 60°00'00" West, along the south line of said 42.0 acres tract, a distance of 665.77 feet to a point;

(11) THENCE, North 30°00'00" West, a distance of 462.00 feet to a point;

(12) THENCE, North 60°00'00" East, along the north line of said 42.0 acres, a distance of 992.15 feet to a point in the west line of a called 9.74 acres tract described to Admiral, TLC in 2013037496, F.B.C.C.F.;

(13) THENCE, North 29°54'53" West, a distance of 748.50 feet to a point marking the northwesterly corner of a called 4.6 acres tract described to Curtis Lucas in 2000102582, F.B.C.C.F.;

(14) THENCE, North 60°09'26" East, a distance of 2245.57 feet to a point marking the northeasterly corner of a called 19.47 acres tract described to TD Phan in 2011011742, F.B.C.C.F.;

(15) THENCE, South 30°00'00" East, along the easterly line of said 19.47 acres tract, a distance of 742.34 feet to a point;

(16) THENCE, North 60°00'00" East, a distance of 1211.18 feet to a point;

(17) THENCE, North 59°02'24" East, a distance of 1295.34 feet to a point in the west right-of-way line of West End Tavener Road;

(18) THENCE, South 31°02'43" East, along the west right-of-way line of West End Tavener Road, a distance of 1194.29 feet to a point;

(19) THENCE, South 59°14'00" West, along the west right-of-way line of West End Tavener Road, a distance of 21.92 feet to a point;

(20) THENCE, South 24°14'50" East, along the said west line right-of-way line of West End Tavener Road, a distance of 765.58 feet to the POINT OF BEGINNING and containing 274 acres of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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